



## **Federal Omnibus Legislation: Bill C-38: *Jobs, Growth and Long-term Prosperity Act* & Bill C-45: *Jobs and Growth Act, 2012***

Two recent omnibus bills have caused much concern amongst First Nations: **Bill C-38: *Jobs, Growth and Long-term Prosperity Act***, which passed on June 29, 2012, and **Bill C-45: *Jobs and Growth Act, 2012***, which passed on December 14, 2012

**These bills contain provisions to implement the 2012 Federal Budget and contain changes to over 90 federal laws.** These changes were introduced without consultation with First Nations and rushed through Parliament with limited opportunity for review and engagement.

An analysis of how these changes – both individually and as a whole – would impact on Aboriginal and Treaty rights is required to be carried out by the Government, consistent with section 35 of the *Constitution Act, 1982*. AFN has demanded this analysis from the Government of Canada.

**AFN has expressed opposition to these bills from the outset. However it is important to note that these Bills do not and cannot have the effect of immediately eliminating our rights. At every stage of the process AFN is opposing the implementation of these Bills and anything that contravenes our Inherent and Treaty Rights.**

The full extent to which the provisions within these Bills will impact First Nations will depend on subsequent policies and regulations, however, the overall effect of these amendments, particularly with regard to environmental regimes and resource development will be to limit avenues and opportunities for First Nations to examine and engage in the approval processes for major projects.

Ongoing and dedicated action is required particularly to monitor regulatory and related policy implementation of these changes. Also, First Nations are exploring legal avenues for combatting and overturning these changes.

A strategy for coordinated direct action is under development by the AFN Executive and will be confirmed on December 20, 2012

Specific areas of concern are outlined below. More detailed information and updates can be found at [www.afn.ca](http://www.afn.ca) and have been provided to First Nations and on the website on a weekly basis

### **Changes to the *Fisheries Act***

- Changes have modified and limited the intent of the *Fisheries Act* to the protection of “fisheries”, imposing a definition of Aboriginal Fisheries and minimizing prohibitions to “serious harm”
- Regulatory and policy development

### ***Canadian Environmental Assessment Act (2012)***

- Bill C-38 replaced the current *Canadian Environmental Assessment Act* with new legislation which decreases opportunity for First Nations’ involvement in environmental assessments as well as ends environmental assessments for minor projects, referred to as “screenings”.
- The *CEAA 2012* imposes timelines of 12 months for environmental assessments, 18 months for review panels undertaken by the National Energy Board or the Canadian Nuclear Safety Commission and 24 for months for all other review panels and provides notice only through an internet posting.
- Will allow substitution of provincial assessments processes, which are often less rigorous and may have lesser requirements for First Nation involvement.
- These changes clearly will not meet standards for Consultation and Accommodation previously established by the Supreme Court of Canada nor the International standard of Free, Prior and Informed Consent articulated in the United Nations Declaration

### ***National Energy Board Act***

- Changes limit the ability to challenge decisions of the federal Cabinet with regards to project approvals.

### ***Indian Act amendments***

- Bill C-45 amends sections of the Indian Act related to “designation” of land within a reserve for certain purposes for a set period of time as defined by the community. Lands which are designated do not lose reserve status and are considered “leased”.
- Amendments reduce the threshold for voting to lease lands and change final approval from the Cabinet to the Minister of Aboriginal Affairs and Northern Development, upon recommendation by a First Nation council.

### ***Navigable Waters Protection Act***

- Changed to the *Navigation Protection Act* – reduces the numbers of protected water bodies, opens up waterways to further development and does not uphold Constitutional requirements for consultation and accommodation.